



PATENT
ATTORNEY DOCKET NO. 50125/107001

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Sam Cha

Printed name of person mailing correspondence

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Signature of person mailing correspondence

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Superti-Fuga et al.

Confirmation No.: 2727

Serial No.: 10/555,896

Art Unit: 1645

371(c) Date: December 6, 2006

Examiner: Not Yet Assigned

Customer No.: 21559

Title: PROCESS FOR THE IDENTIFICATION OF NEW MEDICAL TARGETS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER C.F.R. § 1.182

Applicants petition to have the foreign priority information corrected in the above-referenced application. This application is the National Stage of PCT/EP2004/004883. International Application No. PCT/EP2004/004883 was filed on May 7, 2004 claiming the priority of EP 03100274.4, allegedly filed on May 7, 2003. This priority information was incorrect. The correct priority document should have been EP 03010290.9 filed on May 7, 2003 (see, Exhibit 1; Request filed with the European Patent Office (E.P.O.) in the corresponding European patent application, EP 04731591.6).

The incorrect priority document, EP 03100274.4, corresponds to a patent application filed on February 10, 2003, relating to completely different subject matter, namely to protein complexes of the TNF- α signal transduction pathway.

The correct priority document, EP 03010290.9 was filed, as correctly indicated in the PCT Request, on May 7, 2003. On June 9, 2004, it was requested that the E.P.O. prepare and transmit to the International Bureau a certified copy of EP 03100274.4.

On November 11, 2004, more than five months after the filing of the June 9, 2004 request, and after the 16-month term as set in PCT Rule 26*bis*, a notification from the E.P.O. was received indicating an inconsistency between the filing date and the number of the priority document.

On December 9, 2004, a request for correction of priority in the international phase was filed. Since the 16-month deadline for such correction had already passed, this request was rejected on February 21, 2005.

As a result of the above sequence of events, the publication of International Application No. PCT/EP2004/004883 (WO 04/099774) lists the incorrect foreign priority information (i.e., EP 03100274.4; front page of WO 04/099774 enclosed; Exhibit 2). Applicants submit that the correct foreign priority information is listed on the Application Data Sheet filed on November 7, 2005 in the above-referenced case: EP 03010290.9 (Exhibit 3; page 5).

The Filing Receipt mailed in the present application on August 20, 2007 lists the incorrect foreign priority information: EP 03100274.4. Applicants hereby respectfully request that the enclosed Filing Receipt be corrected as follows.

Foreign Applications

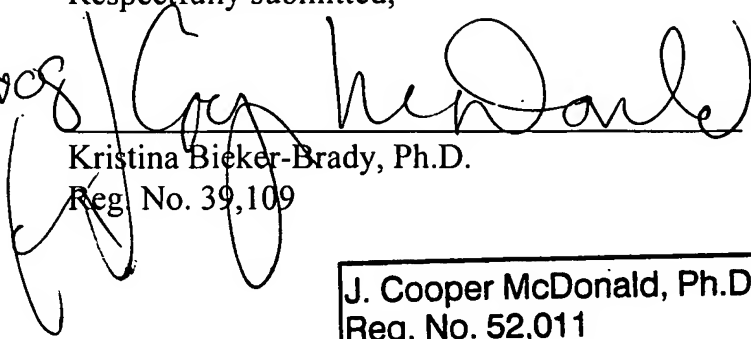
EUROPEAN PATENT OFFICE (EPO) ~~03100274.4~~ 03010290.9 05/07/2003

Enclosed is a check for \$400.00 for the fee required by 37 C.F.R. § 1.17(f). If there are any other charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date:

March 19, 2008


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| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY. DOCKET NO | TOT CLMS | IND CLMS |
|------------|-----------------------|----------|---------------|-----------------|----------|----------|
| 10/555,896 | 12/06/2006 | 1645 | 1380 | 50125/107001 | 27 | 1 |

CONFIRMATION NO. 2727

21559
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

FILING RECEIPT



OC000000025431186

Date Mailed: 08/20/2007

Receipt is acknowledged of this nonprovisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

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Power of Attorney: The patent practitioners associated with Customer Number 21559.

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/EP04/04883 05/07/2004
which claims benefit of 60/472,663 05/22/2003

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 03400274.4 05/07/2003
03010290.9

If Required, Foreign Filing License Granted: 08/16/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US10/555,896**

Projected Publication Date: 11/22/2007

Non-Publication Request: No

Early Publication Request: No

Title

Process for the Identification of New Medical Targets

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

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Exhibit 1

ISENBRUCK | BÖSL | HÖRSCHLER | WICHMANN | HUHN
Patentanwälte

Patentanwälte · Postfach 860 880 · D-81635 München

Europäisches Patentamt

80298 München

München, December 7, 2005

EP 04731591.6

CellZome AG

Process for the identification of new medical targets

Our ref: CEL62764PCEP HN/FLZ/smi

I. Requests

1. Entry of the national stage of the above application based on the attached documents is requested.
2. Should the Receiving Section come to the conclusion that the above request has been filed too late, it is requested to issue a communication pursuant to R. 85a and 85b EPC.
3. It is requested that the priority number be corrected from EP 03100274.4 to EP 03010290.9 under R. 88 EPC.
4. It is requested that the priority document EP 03010290.9 be included in the file according to R. 38 (4) EPC.
5. Oral Proceedings according to Art. 116 EPC are requested should the Receiving Section be inclined to reject the request for correcting the priority number.

II. Summary of the facts

EPO - Munich
41

07. Dez. 2005

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US-Nr. 38161/22616
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1. According to instructions received on April 4, 2004, our firm filed the present PCT application on May 7, 2004, claiming, inter alia, the priority of EP 03100274.4, filed allegedly on May 7, 2003.
2. However, this number was incorrect, since the correct number should have been EP 03010290.9, filed on May 7, 2003. This error resulted from the fact that the person handling patent matters at Cellzome AG had erroneously noted the incorrect number in his list of pending patent applications.
3. The incorrect number, EP 03100274.4, corresponds to a patent application filed on February 10, 2003, relating to a completely different subject matter, namely to protein complexes of the TNFalpha signal transduction pathway. This application has more than 1300 pages and is available to the Examiner by file inspection of the published PCT application WO 04/035783. Due to the size of this application, it is refrained from providing it as paper copy.
4. The correct priority document, EP 03010290.9 (copy attached) was filed, as correctly indicated in the PCT request, on May 7, 2003. Both EP applications were filed by another law firm in the name of Cellzome AG.
5. On June 9, 2004, it was requested that the EPO should prepare and transmit to the International Bureau a certified copy of EP 03100274.4.
6. On November 11, 2004, more than five months after the filing of the request indicated under 5. above and after the 16 months term as set in R. 26bis PCT, our firm received a notification of the EPO indicating an inconsistency between the filing date and the number of the priority document.
7. On December 9, 2004, a request for correction priority in the international phase was filed. Since the 16 months term had already passed, this request was rejected on February 21, 2005.

III. Correction of priority

1. The request for correcting the priority number is well founded.
2. It is accepted case law that a priority claim may be corrected under R. 88 EPC also after entry of the regional phase before the EPO. The relevant case law and the respective requirements are e.g. summarized in J 02/92 and J 02/03. In fact, the present case resembles very much these two decisions, where also the correction of the priority number has been allowed.
3. From the facts, there can be no doubt that the error for which correction is requested does not concern an omission in the priority declaration but an error and mistake concerning particulars of the priority declaration (See J 02/92, Point 4. of the Reasons). It is clear that it was intended to claim priority of EP 03010290.9, filed on May 7, 2003. Fur-

thermore, a correction during the international phase was not possible due to the expiry of the time limit of R. 26bis PCT.

4. At the date of the publication of the present PCT application (WO 04/99774) it would have been clear to the skilled person that the priority claim was incorrect, since he would have known from WO 04/035783 that EP 03100274.4 had been filed on February 10, 2003 (i.e. more than one year before the filing of the present PCT application) and was directed to a different subject matter.
5. Finally, the requested correction would not adversely affect the interests of Third Parties. As stated in J 02/92, there exists no substantial interest

"in maintaining a wrong file number in the published application. Third parties should inspect the file if they wish to draw substantive conclusions from the priority document. In this respect, the file number as such is of no relevance to a competitor who has to make up his mind whether he may use the invention or not. A correction does not affect his interests (see Pont 5.2.3 of the Reasons).

6. These conclusions have been confirmed in J 02/03 (see Pont 4.1 of the Reasons).
7. In conclusion, the requirements as set forth in the case law for allowing a request for the correction of a priority number during the regional phase before the EPO are presently fulfilled. The request for correcting the priority number to EP 03010290.9 is well founded.
8. The request to issue a communication pursuant to R. 85a and 85b EPC is only made in abundance of precaution in the unlikely case that the Receiving Section should come to the conclusion that regional phase should have been entered 31 months after the filing date of the incorrect priority document EP 03100274.4.



Dr. Fritz Lahrtz
European Patent Attorney

Attachment:

Text of Priority document EP 03010290.9

(19) World Intellectual Property
Organization
International Bureau



Exhibit 2

(43) International Publication Date
18 November 2004 (18.11.2004)

PCT

(10) International Publication Number
WO 2004/099774 A2

(51) International Patent Classification⁷: **G01N 33/53**

(21) International Application Number:
PCT/EP2004/004883

(22) International Filing Date: 7 May 2004 (07.05.2004)

(25) Filing Language: English

(26) Publication Language: English

(30) Priority Data:
03100274.4 7 May 2003 (07.05.2003) EP
60/472.663 22 May 2003 (22.05.2003) US

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(81) Designated States (unless otherwise indicated, for every
kind of national protection available): AE, AG, AL, AM,
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ZW.

(84) Designated States (unless otherwise indicated, for every
kind of regional protection available): ARIPO (BW, GH,
GM, KE, LS, MW, MZ, NA, SD, SI, SZ, TZ, UG, ZM,
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GW, ML, MR, NE, SN, TD, TG).

Published:

— without international search report and to be republished
upon receipt of that report

For two-letter codes and other abbreviations, refer to the "Guid-
ance Notes on Codes and Abbreviations" appearing at the begin-
ning of each regular issue of the PCT Gazette.

(54) Title: PROCESS FOR THE IDENTIFICATION OF NEW MEDICAL TARGETS

(57) Abstract: The present invention relates to a process for the isolation and identification of pharmaceutically relevant target compounds (TC) from a sample, said sample being derived from a living organism, wherein said target compound(s) bind(s) to a compound of interest (COI) under physiological conditions, said compound of interest (COI) being associated with a given impaired condition or disease. Furthermore, the present invention relates to a process for the identification of a pharmaceutically effective compound useful for preventing and/or treating a given impaired condition or disease, wherein said compound is identified by its binding to a relevant target compound (TC) that has been identified and isolated according to the above mentioned process.



WO 2004/099774 A2

Application Data Sheet**Application Information**

Application number::

Filing Date:: 11/07/2005

Application Type:: Regular

Subject Matter:: Utility

Suggested Classification::

Suggested Group Art Unit::

CD-ROM or CD-R?:: None

Number of CD disks::

Number of copies of CDs::

Sequence submission?::

Computer Readable Form (CRF)?::

Number of copies of CRF::

Title:: PROCESS FOR THE IDENTIFICATION OF NEW
MEDICAL TARGETS

Attorney Docket Number:: 50125/107001

Request of Early Publication?:: No

Request of Non-Publication?:: No

Suggested Drawing Figure::

Total Drawing Sheets::

Small Entity?:: No

Petition Included?::

Petition Type::

Licensed US Govt. Agency::

Contract or Grant Numbers::

Secrecy Order in Parent Appl.?:: No

Applicant Information

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Primary Citizenship Country:: Italy

Status:: Full Capacity

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Correspondence Information

Correspondence Customer Number:: 21559

Representative Information

Representative Customer Number:: 21559

Domestic Priority Information

| | | | |
|---------------|-------------------|----------------------|----------------------|
| Application:: | Continuity Type:: | Parent Application:: | Parent Filing Date:: |
|---------------|-------------------|----------------------|----------------------|

This Application National stage of PCT/EP2004/004883 05/07/04

PCT/EP2004/004883 An application claiming the 60/472,663 05/22/03
benefit under 35 USC 119(e)

Foreign Priority Information

| | | | |
|-----------|----------------------|---------------|--------------------|
| Country:: | Application Number:: | Filing Date:: | Priority Claimed:: |
| EP | 03010290.9 | 05/07/03 | YES |

Assignee Information

Assignee name::

Street of mailing address::

City of mailing address::

State of Province of mailing address::

Country of mailing address::

Postal or Zip Code of mailing address::